

#### Members

Rep. Linda Lawson, Chairperson  
Rep. Vernon Smith  
Rep. Ralph Foley  
Rep. Bruce Borders  
Sen. Brent Steele  
Sen. Richard Bray  
Sen. Lindel Hume  
Sen. Glenn Howard  
Ed G. Buss  
Steve Johnson  
Hon. Randall T. Shepard  
Larry Landis  
Neil Moore  
R. Todd McCormack  
Sheila Hudson  
Hon. Frances Gull  
Hon. James Humphrey  
Hon. Roger Duvall  
Hon. Lynn Murray  
Dr. Stephen Ross



## **SENTENCING POLICY STUDY COMMITTEE**

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Mark Goodpaster, Fiscal Analyst for the  
Committee

Authority: P.L. 216-2007

### **MEETING MINUTES<sup>1</sup>**

**Meeting Date:** August 12, 2008  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 431  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 1

**Members Present:** Rep. Linda Lawson, Chairperson; Rep. Vernon Smith; Rep. Ralph Foley; Rep. Bruce Borders; Sen. Richard Bray; Sen. Lindel Hume; Sen. Brent Steel; Ed G. Buss; Steve Johnson; Larry Landis; R. Todd McCormack; Sheila Hudson; Hon. Frances Gull; Hon. James Humphrey; Hon. Roger Duvall; .

**Members Absent:** Sen. Glenn Howard; Hon. Randall T. Shepard; Hon. Lynn Murray; Dr. Stephen Ross; Neil Moore.

#### **I. Opening and Introductions**

Chairperson Linda Lawson called the meeting to order at 1:37 P.M. and asked each of the

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committee members to introduce themselves.

After the call to order, Rep. Lawson began the meeting with the first agenda item (issues concerning HEA 1324-2007 and the theft of copper and other valuable metals).

## **II. Issues concerning HEA 1324-2007 (theft of copper and other valuable metals)**

Rep. Lawson stated that HEA 1324 was presented last year by Sen. Tallian. Rep. Lawson asked Andy Hedges, LSA staff member, to brief the committee members and discuss the merits of HEA 1324. Sen. Tallian was unable to attend the first meeting, but will present the issue of theft of copper and other valuable metals at the next meeting.

Sen. Steele suggested the committee look into how individual buyers get around established protocol.

## **III. Granting the commissioner of the department of correction the authority to appoint policing officers.**

Rep. Lawson introduced Mr. Tim Brown from the Department of Correction (DOC) to address the item of granting authority to the DOC commissioner to appoint policing officers. Mr. Brown stated currently, if an individual commits a felony on correctional grounds, DOC does not have the ability to arrest or detain individuals. Often times the Department is faced with the obstacle of trying to detain visitors, parolees, and staff when the law has been violated. Mr. Brown explained that facilities and parole agents have to request and wait for local law enforcement to detain individuals and because many of the DOC facilities are located in rural areas, the request tends to be a time-consuming strain on local law enforcement. He also provided the biggest violation of the law is trafficking of tobacco, cell phones, and drugs. Mr. Brown suggested that by providing the Commissioner with the discretion to swear in appropriate staff, the Department will minimize the strain on local law enforcement while ensuring those who break the law are appropriately detained prior to evading arrest. He stated that DOC would like to change the Indiana Code to include a limited number of correctional officers (a rough estimate would be 30-40 individuals) that would have similar powers and training as university police.

Mr. Quinton Storm, Investigator for Putnamville Correctional, testified after Mr. Brown and provided specific examples of trafficking within his facility. In each of the cases, Mr. Storm did not have authority to detain or arrest the suspect. The individual left the prison and was not prosecuted. Mr. Storm said prosecution is contingent on how fast law enforcement can respond and in most cases, individuals are never caught because they leave the facility prior to arrest.

Rep. Lawson asked for clarification from DOC about the request for 30-40 correctional officers and made a correction that the university police training is not two weeks, but twelve weeks like all other law enforcement training.

Many of the committee members including Sen. Bray, Rep. Foley and Mr. Larry Landis were surprised correctional officers and DOC facilities currently do not have enforcement powers to detain individuals.

Sen. Bray questioned Mr. Brown about citizen's arrest and asked why the department doesn't detain suspects based on the evidence. Mr. Brown answered that no immunities exist for correctional officers and is too much of a risk and liability for the Department.

Ms. Sheila Hudson stated her concerns about giving police powers to parole officers. She stated parole officers already have general powers to arrest without process, and the real issue resides with the parole board. Ms. Hudson suggested that the probation, parole, and corrections are separate issues and the committee and DOC should treat them as such before granting law enforcement authority in all areas.

Mr. Dave Stewart asked Mr. Brown about the total number of correctional officers needed to go through training. He stated his concern about DOC's estimate (30-40 officers) not being enough- especially with the lag time of training new correctional officers. Mr. Brown stated that the estimate was based on some of the current needs in DOC facilities and the "may" provision was inserted to take care of any additional people that might be needed. He also stated that scheduled shifts for correctional officers can be determined by the facility and the Commissioner.

Rep. Foley stated several aspects need to be reviewed. He questioned the authority mall security officers have to detain shoplifters. Mr. Steve Johnson responded that specific authority had been given to mall security officers. Judge Duvall suggested for DOC to review the definition of "law enforcement officer" and add correctional officers to the definition within the limited scope of the law.

Mr. Larry Landis suggested giving correctional officers the power to detain without putting people through the Indiana Law Enforcement Academy. Mr. Todd McCormack stated that he believed correctional officers should not be given the same enforcement abilities like other law enforcement officers. He suggested DOC assign Indiana State Troopers to the facilities for law enforcement individuals instead of going through the trouble of training new correctional officers. Mr. McCormack also brought up the fiscal impact of paying the newly trained correctional officers with hazardous duty pay. Rep V. Smith agreed that either assign state troopers or give the correctional officers give them the power to detain only in the correctional system.

Sen. Bray asked Mr. Brown about training requirements for correctional officers. DOC responded that correctional officers have to have to three weeks of academic, CPR and First Aid. Fire arms training is designated at each facility and is not necessary for every correctional officer that completes the training.

Rep. Lawson ended the discussion and suggested for all committee members to let DOC know what concerns and suggestions. She stated that the issues reviewed and discussed further at the next meeting.

#### **IV. Presentation by Tim Brown, Legislative Liaison for the Department of Correction, concerning correctional matters.**

Rep. Lawson continued the discussion again with Mr. Brown. He presented upcoming DOC legislative issues for the committee's review. Mr. Brown asked the Sentencing Policy Study Committee to consider the topics below:

- Waiver of certain outstanding fees for reentering offenders
- Loss of substantial credit time and Violent Offender Status
- Year minimum admission requirement for adult offenders
- Reentry Administrative Account

Mr. Brown stated that the waiver of certain outstanding fees for reentering offenders is

necessary because offenders often have fines upon release with no means to meet the monetary obligations. DOC's suggestion is to establish financial responsibility plans that provide offenders with the option to pay on fees while incarcerated. Mr. Brown suggested that consistent payment will allow offenders to have their fines waived by the sentencing court upon release.

Mr. Stewart asked Mr. Brown specifically about the fines he was suggesting to be waived. Mr. Brown responded that DOC was reviewing the court fines and BMV fines. He stated restitution dollars are not included in the review. Mr. Brown said the language could be crafted so the waiver will not take away fee dollars from those entities who already receive specific allocations. Mr. Brown reiterated that the intent of the legislation would be for the offender to take responsibility and the Department would devise a financial plan solely on their ability to pay their debt to society. The Department policy would dictate how a financial plan would be crafted to specific concerns and develop an appropriate sliding scale structure.

Mr. Brown continued the discussion with the loss of substantial credit time and "Violent Offender" status. He stated that a portion of the offender population loses a majority of their good time credit because of behavior. Mr. Brown stated this causes offenders to serve nearly their entire sentence incarcerated and allows the most dangerous offenders to be released without supervision. Mr. Brown suggested that legislation could be drafted to require an individual who is convicted of an A or B felony, and has less than 60 days good time credit at the time of release, and as a result of institutional behavior, to be classified as a "violent offender."

Sen. Bray raised the concern that a "Violent Offender" classification is primarily designed for sexual offenses. He wanted to know if it was necessary and appropriate to classify others within that category. Rep. V. Smith asked Mr. Brown of the typical crimes of offenders that have to be committed to be considered to "Violent Offenders" and what other crimes are classified as A and B felonies. Mr. Brown responded that murder, voluntary manslaughter, are considered "Violent Offender" classifications and aggravated battery as an example of an A or B Felony classification. Many of the sex offenses are coupled with this designation in the registration requirement on the Indiana Sheriffs' Sex and Violent Offender Registry.

Judge Roger Duvall had additional concerns about delegating the decision to an administrative process rather than the current process that is typically delegated to a judicial or prosecutorial process.

Mr. Brown addressed the third topic of a year minimum admission requirement for adult offenders. He stated that DOC is experiencing an extremely high number of "walkthroughs (an individual who is soon to be released after processing into the state system)." Mr. Brown suggested that DOC should prohibit admission of individuals who are sentenced to less than a year or revoked for less than a period of 365 days.

Judge Duval asked what the current numbers of prisoners are that would fall under the year minimum requirement suggestion. Mr. Brown stated that DOC will prepare the numbers for the committee's next meeting.

Judge Gull stated that larger counties cap populations in jails. The suggestion to have a year minimum requirement may place an undue burden back on local jails when they are already operating at maximum capacity put in place by the caps. Commissioner Buss responded that DOC is set up for long-term incarceration. He suggested that if an offender is assigned to one year or less he or she should be held in the county jail and closer the

community. Currently, over 1800 individuals are serving less than 18 months. Commissioner Buss stated that data suggests that offenders will respond better if they are serving time in their local communities.

Mr. McCormick added that if the law is changed to 365 days, judges would change sentencing practices and the legislative change would have an adverse affect.

Mr. Brown also stated that the last legislative suggestion for DOC was for a Reentry Administrative Account to help with reentry for offenders lacking financial means to support successful transition back to the community. The account would require a percentage of offender's earnings be kept in a pooled account and the offender would be able to access the money to assist with the transition back into the community.

Rep. V. Smith wanted to make sure money is not being taken away from the offender's spending accounts while in prison. Rep. Borders agreed and asked if all levels of classification within DOC were able to earn an income. Mr. Brown responded that offender trust accounts usually have a significant amount of money. DOC would like to help reentry offenders and make them responsible, but will not use money given to the offenders from family members deposited into the offender trust account to assist in the payment for things inside the prison.

Sen. Hume thanked DOC for what they are trying to do this session by offering pieces of legislation that will help offenders with reentry back into society.

Rep. Lawson completed the discussion and again suggested for the committee members to review the information from DOC. She asked that feedback be provided to Mr. Hedges and Mr. Brown before the next meeting.

#### V. **Issues related to statute of limitations on sex crimes.**

Rep. Lawson introduced former Rep. Hoy to discuss the last agenda topic of the statute of limitations on sex crimes.

Rep. Hoy said last year a bill was brought to his attention that would eliminate the statute of limitations on sex crimes. Rep. Hoy said he decided not hear the bill, but filed a resolution to have the issue reviewed further. He stated he wanted the committee to take a look at how short the statute of limitations was and asked for it to be lengthened to a more reasonable amount of time.

Rep. Hoy's constituents, Laura Simmon from Evansville and Melony Dodi from southwest Indiana shared their experiences with the committee.

Rep. Lawson asked for Mr. Hedges to review and explain to the committee the current statute of limitations. Mr. Hedges stated that a Class A felony falls under a 31 year statute of limitation and not a lifetime limit. The code site reference is 35-41-4-2. Rep. Lawson asked for him to continue to review the statute of limitation and provide information to committee members before the next meeting.

#### VI. **Plan for future meetings**

Rep. Lawson stated all of the agenda topics from this meeting will be discussed and reviewed at the next meeting. Also HB 1209 (review of sentences of certain habitual

offenders) from last session and SEA 258 (duties of parole board and DOC; sex offenders and schools) will tentatively be on the agenda.

VII. **Next scheduled meeting date**

Rep. Lawson set the next meeting date for September 10th at 1:30 p.m and the Sentencing Policy Study Committee meeting was adjourned at 3:51 pm.